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**Patent and Trademark Office**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/460,951 12/14/99 PANZERA

C JEN-0005-Z

023413  
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IM22/1019

EXAMINER

DERRINGTON, J

ART UNIT

PAPER NUMBER

1731

4

DATE MAILED:

10/19/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

## Office Action Summary

Application No.  
**09/460,951**

Applicant(s)  
**PANZERA**

Examiner  
**Derrington**

Group Art Unit  
**1731**

☒ Responsive to communication(s) filed on Dec 14, 1999

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire THREE month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

### Disposition of Claims

☒ Claim(s) 1-7 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-7 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

### Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

### Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 1

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frank (5,698,019).

This reference discloses a dental restoration material for use in preparing crowns, bridges, teeth, etc.. The material comprises the components listed in the table of claim 23 including amounts that are overlapping with the claimed components (Compare table at Col. 2 of reference with table in claim 23). The material also contains leucite crystalline and all crystalline phases preferably have an average size of less than 3 microns (See Abstract and Col. 2, lines 62-67). Because of the similarity of the components and ranges, it appears that the instant maturing temperature and coefficient of thermal expansion would be inherent in the materials of Frank.

4. An issue of public use or on sale activity has been raised in this application. In order for the examiner to properly consider patentability of the claimed invention under 35 U.S.C. 102(b), additional information regarding this issue is required as follows:

Applicant has raised an issue of public use or on sale activity in the information disclosure statement presented on March 9, 1999 in parent application 08/870,965 and that information has also been presented in this application. There appears to be a dispute regarding the evidence presented in the Declaration by Dr Richard Sessions and the evidence presented by Chemichl, Inc.

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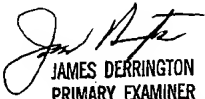
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in litigation entitled Jeneric/Pentron, Inc. V. Dillon Company, Inc. and Chemichl, Inc. in the United States District Court for the District of Connecticut. The examiner requests additional information regarding how this dispute has been resolved in the current litigation. Additionally, the examiner requests information (to the extent possible) as to how the components and properties of the claims are the same as or different from the material (LF-1-PFM) asserted by Chemichl, Inc. "to be distributed in the United States".

Applicant is reminded that failure to fully reply to this requirement for information will result in a holding of abandonment.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Derrington whose telephone number is (703) 308-3832.

  
JAMES DERRINGTON  
PRIMARY EXAMINER  
ART UNIT ~~127~~ 1731

jd  
October 18, 2000